

1982 WL 189111 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1982

*1 The Honorable David M. Beasley
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Beasley:

In a letter to this office, you inquired as to whether or not a prosecutor can demand a trial by jury in a criminal action when the action is brought in Magistrate's Court in this state. The right of trial by jury before a Magistrate is embodied in [Section 22-2-150 of the Code of Laws of South Carolina \(1976\)](#). [Section 22-3-230, Code of Laws of South Carolina \(1976\)](#), states that "either party to a suit before a Magistrate shall be entitled to a trial by jury." The case of [State v. Nash, 51 S.C. 319, 28 S.E. 946](#), held that the Attorney General, Solicitor or anyone acting in the State's interest could demand a trial by jury even where the defendant expressly objected to the demand. Therefore, it is the opinion of this Office that the prosecutor can demand a trial by jury in a criminal action in Magistrate's Court in this state. Enclosed are copies of two prior opinions of this office on the same subject. I hope this response is dispositive of your question. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

John R. Rakowsky
Assistant Attorney General

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